

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND

3 -----X
4 EQUAL EMPLOYMENT OPPORTUNITY : CASE NO.
5 COMMISSION, :
6 Plaintiff, : WDQ-02-CV-648
7 AND :
8 KATHY C. KOCH, :
9 Plaintiff-Intervenor, :
10 : VS. :
11 : :
12 : :
13 LA WEIGHT LOSS, :
14 Defendant. :
15 -----X

16 Oral deposition of KRISTI O'BRIEN,
17 held at the offices of the Equal
18 Employment Opportunity Commission, Bourse
19 Building, Suite 400, 111 South
20 Independence Mall East, Philadelphia,
21 Pennsylvania, on Thursday, August 28,
22 2003, beginning at 9:35 a.m., before
23 Debra J. Weaver, a Federally Approved
24 Registered Professional Reporter,
25 Certified Realtime Reporter and Certified
26 Shorthand Reporter.

27 ESQUIRE DEPOSITION SERVICES
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ALSO PRESENT:

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KAREN SIEGEL

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1 directly. So I'll give you an example.
 2 I'm looking at the New Jersey market and
 3 I think the East Brunswick center needs
 4 help and I would like to send my trainer
 5 over to that East Brunswick center to
 6 help them. She would say, well, where
 7 does the supervisor want her to be?
 8 Well, the supervisor might want her in
 9 Edison to help in Edison. And that's
 10 where she would go then, Edison. Versus,
 11 in Elaine's territory, if I thought that
 12 the trainer needed to be in East
 13 Brunswick, she would be in East
 14 Brunswick.

15 Q. Okay. Would Eileen -- would
 16 you make recommendations to Eileen?

17 A. Sure.

18 Q. What was her -- what did you
 19 observe as far as her attitude with
 20 respect to those recommendations? Was it
 21 deferential? Was it combative?

22 A. Sometimes appreciated.
 23 Sometimes thanks, but this is what we're
 24 going to do and this is what I think

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1 GM position and the company sort of was
 2 split in half between Elaine and Eileen.
 3 I did serve more in that function and
 4 capacity with Elaine than I did Eileen.
 5 Eileen sort of maintained that philosophy
 6 that, hey, the trainers are in the field,
 7 they're working with supervisors every
 8 day and they need to report to them.

9 Q. But you're not saying you
 10 had no role with respect to the trainers
 11 out in the field?

12 A. No.

13 Q. I'm sorry. I need to be
 14 clear on this. With respect to Eileen
 15 Stankunas's territory, you're not saying
 16 you had no role with respect to trainers?

17 A. I didn't have no role. It
 18 just wasn't the role you would think a
 19 director of training would have.

20 Q. What was your role in terms
 21 of supervising the --

22 A. Basically --

23 Q. Let me finish my question.

24 A. I'm sorry.

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1 needs to be done.

2 Q. So with respect to the -- I
 3 guess it would have been the trainers in
 4 Eileen's territory -- well, first of all,
 5 let me ask you, had that always been
 6 Eileen's practice?

7 A. Yes.

8 Q. Even back when you were a
 9 director of training?

10 A. Yes. I think it's important
 11 for me to define here because, although I
 12 had the title, I was very limited in what
 13 I was, let's say, allowed to do. So in
 14 an ordinary situation, you would think a
 15 director of training, she's totally in
 16 charge of her trainers, totally in charge
 17 of the training programs, dictated, you
 18 know, when you would come in, when you
 19 wouldn't, when you would have a training
 20 program, when you wouldn't. I didn't do
 21 that. She did that and her supervisors
 22 did that. I really started doing those
 23 types of things when I worked with, when
 24 the company -- when I stepped out of the

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1 Q. -- the trainers in Eileen's
 2 territory?

3 A. Basically she wanted me to
 4 get them up and running and she wanted me
 5 to train them to be, you know, competent,
 6 effective trainers for her. Pretty much
 7 beyond that, day-to-day requests,
 8 day-to-day management came from her
 9 regional supervisors.

10 Q. So is it fair to say that,
 11 with respect to day-to-day nuts and bolts
 12 of where to go and who to see and what to
 13 do, that that -- that Eileen had given
 14 that authority to her supervisors?

15 A. Yes.

16 Q. Is it fair to say that with
 17 respect to issues pertaining specifically
 18 to training, that that is something that
 19 Eileen had given to you as your
 20 responsibility?

21 MR. LANDAU: Object to the
 22 form of the question. Do you
 23 understand it?

24 THE WITNESS: No, I don't.

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1 A. She reported those three
2 performance areas in one conversation,
3 that these were her issues, that she had
4 employees that were in the field not
5 prepared to conduct and feeling competent
6 and comfortable conducting the daily
7 visits, the medical histories and the
8 chart work-ups.

9 Q. Well, did you ever think to
10 ask Kathy Koch, what are you doing with
11 respect to chart work-ups? I mean, was
12 that ever something that -- do you recall
13 doing that? Do you recall asking her?

14 A. I believe that Lynne had
15 some coaching sessions. At the point
16 that I got the call, Lynne had told me
17 that she already had these conversations
18 with Kathy and that these things were
19 being corrected.

20 Q. Okay. But listen to my
21 question. Have you ever had any
22 conversation where you asked Kathy Koch,
23 what are you doing with respect to
24 training people on chart work-ups? I

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1 observe Kathy Koch performing training on
2 the issue of medical histories?

3 A. No.

4 Q. Did you ever look at a tape
5 of her performing training?

6 A. No.

7 Q. Artist's rendering of her
8 performing training?

9 A. No.

10 Q. Did you ever ask Kathy Koch,
11 what are you doing with respect to
12 training people on medical histories?

13 A. I don't remember. I'm sure
14 I would have because, you know, I talked
15 to Kathy about Lynne calling me and
16 having these concerns.

17 Q. But do you remember
18 specifically sitting here today asking
19 Kathy Koch, how are you training
20 employees on medical histories?

21 A. I don't remember that. No,
22 I don't remember it.

23 Q. Did you take any notes of
24 your telephone conversations with Ms.

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1 know about Lynne.

2 A. I don't remember.

3 Q. Okay. Let's talk about
4 medical histories. What was the problem
5 there with medical histories, training on
6 medical histories?

7 A. The problem, from what I
8 understood, is that the employees leaving
9 Kathy's training program did not feel
10 prepared to conduct medical histories,
11 daily visits, chart work-ups, PEs.

12 Q. How did you learn of that
13 problem?

14 A. From Lynne Portlock. And,
15 evidently, I think at one point she had
16 employees put in writing that they
17 weren't prepared, like did a training
18 evaluation, how prepared were you coming
19 out of training class, is there anything
20 that we can do better, something like
21 that. So I had read training evaluations
22 from participants in Kathy's training
23 class.

24 Q. Okay. Did you personally

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1 Koch?

2 A. I don't remember if I did or
3 not. Most of the time I did. But I
4 don't remember specifically if I did
5 that.

6 Q. Most of the time with Ms.
7 Koch or most of the time --

8 A. In general.

9 Q. With anybody?

10 A. Yes.

11 Q. Where did you keep those
12 notes?

13 A. I had a notepad, similar to
14 that.

15 Q. Did you have a procedure for
16 what you did with those notes?

17 A. No.

18 Q. Did you ever have
19 circumstances where you took notes of
20 conversations involving allegations of
21 training deficiencies other than Ms.
22 Koch? Do you recall taking notes during
23 any conversation --

24 A. Yes.

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1 Q. -- other than Ms. Koch?
 2 A. Yes.
 3 Q. Okay. What did you do with
 4 those notes?
 5 A. Well, for a while I'd save
 6 those pads, but then eventually I'd
 7 probably discard them. If it was a
 8 corrective counseling session, if it was,
 9 you know, something that I felt needed to
 10 go into their employee file, I'd put it
 11 in their employee file.
 12 Q. Would a training deficiency,
 13 would that fall within the category of
 14 things that need to go in an employee's
 15 file?
 16 A. Yes.
 17 Q. Do you recall putting any
 18 notes regarding Kathy Koch in her file?
 19 A. I don't believe I did.
 20 Q. Generally, how long would
 21 you keep those notes?
 22 A. Not long. A couple months.
 23 Q. Did you ever receive any
 24 instruction from anybody at the company

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1 A. No.
 2 Q. Did you talk to Kathy about
 3 those statements?
 4 A. I don't remember.
 5 Q. And you testified earlier,
 6 you never actually went out and looked at
 7 how Kathy Koch was performing the medical
 8 history training, right?
 9 A. Yes.
 10 Q. As a matter of fact, you've
 11 never observed her performing any
 12 training, correct?
 13 A. Correct.
 14 Q. So you were relying on what
 15 Lynne Portlock was telling you, correct?
 16 A. Correct. She was her active
 17 supervisor.
 18 Q. Did you have other occasions
 19 during that time frame where an area
 20 supervisor contacted you and said, I've
 21 got a problem with a trainer, with their
 22 training performance?
 23 A. I don't recall. No. Not
 24 right now.

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1 that you need to keep all of your notes
 2 regarding Kathy Koch, if any?
 3 A. No.
 4 Q. Okay. So it's fair to say
 5 that, with respect to medical histories
 6 then, that your recollection is that you
 7 got the information on training problems
 8 from Lynne Portlock?
 9 A. Yes.
 10 Q. Okay. What specifically was
 11 it about the medical history that was
 12 Lynne's concern? Was it what you just
 13 talked about with the employees
 14 complaining that they were not adequately
 15 prepared?
 16 A. Yes.
 17 Q. Well, you mentioned that you
 18 reviewed the employee statements?
 19 A. Yes.
 20 Q. Did you talk to the
 21 employees --
 22 A. No.
 23 Q. -- who wrote those
 24 statements?

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1 Q. Do you recall any instance
 2 ever of that happening in your entire
 3 career?
 4 A. Sure. Yes.
 5 Q. Okay. And are those some of
 6 the instances we talked about earlier,
 7 for example, Marci Goldshlack? That's
 8 what we're talking about?
 9 A. Yes.
 10 Q. Other than Marci Goldshlack,
 11 do you remember any instances of an area
 12 supervisor, or a regional supervisor or a
 13 general manager, contacting you and
 14 saying, got a problem with a trainer,
 15 training performance is not good, or
 16 words to that effect, there's a problem
 17 with her training, other than Ms.
 18 Goldshlack and Ms. Koch?
 19 A. Yes.
 20 Q. Okay. Who are the trainers?
 21 A. One I'm thinking of right
 22 now is Laura Terrell. She was New York.
 23 I'd have to think about it. But, yes,
 24 I've received calls in the past about